

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**February 4, 2004**

DIVISION ONE

B154230      Avner      (Not for Publication)  
v.  
Lai, et al.

The summary judgments in favor of defendants Sean C.F. Lai, Olympus Optical Co., Ltd., Johnson & Johnson Medical Inc., and Outpatient Surgical Medical Unit of Santa Monica are reversed, and on remand the trial court is directed to deny the defendants' motions for summary judgment. Avner is entitled to costs on appeal.

Mallano, J.

We concur: Ortega, Acting P.J.  
Vogel (Miriam A.), J.

B169650	Los Angeles County, D.C.S. v. Chloe H., et al.
B171671	Los Angeles County, D.C.S. v. Juanita H.

Filed order consolidating above captioned appeals.

DIVISION TWO

[illegible]

The judgment is affirmed.

Doi Todd, J.

We concur:   Boren, P.J.  
                      Nott, J.

B157103      Shalant      (Not for Publication)  
v.  
Deustch

The judgment is affirmed. The order denying Shalant's motion to tax costs is affirmed. The trial court's order declaring Shalant to be a vexatious litigant is affirmed, except that the prefiling order based thereon is reversed and the matter remanded to the trial court to fix the requisite security to be posted by Shalant pursuant to Code of Civil Procedure section 391.3. The postjudgment order denying attorney fees to Deutsch is reversed. The matter is remanded to the trial court with directions to award Deutsch his reasonable attorney fees incurred in this action, including the appeal. Shalant is further ordered to bear Deutsch's costs of appeal.

Doi Todd, J.

We concur:   Boren, P.J.  
                      Nott, J.

February 4, 2004 (Continued)

DIVISION TWO (Continued)

B165417      Greenspan, et al.                      (Not for Publication)  
                 v.  
                 Allianz Life Insurance Co.,  
                 Step, et al.

The judgments in favor of respondent are affirmed. Appellants are ordered to bear respondent's costs of appeal.

Doi Todd, J.

We concur:    Nott, Acting P.J.  
                 Ashmann-Gerst, J.

DIVISION THREE

B153450      People    (Not for Publication)  
                 v.  
                 Gaither

The judgment is affirmed.

Klein, P.J.

We concur:    Croskey, J.  
                 Aldrich, J.

DIVISION FOUR

B158788      People    (Not for Publication)  
                 v.  
                 Roberts

The judgment is affirmed.

Epstein, Acting P.J.

We concur:    Hastings, J.  
                 Curry, J.

February 4, 2004 (Continued)

## DIVISION FOUR (Continued)

B159617 Amaral (Not for Publication)  
v.  
Double "P" Concrete Pumping, Inc., et al.

The judgment is reversed solely with respect to the inclusion of prejudgment interest pursuant to an offer under Code of Civil Procedure section 998 as an item of costs, and the matter is remanded to the trial court with directions to strike this item of costs, and to modify the judgment to state that such interest will accrue from the date of Amaral's offer to settle. The judgment is affirmed in all other respects. The parties shall bear their own costs on appeal.

Epstein, Acting P.J.

We concur: Hastings, J. (Opinion)  
Curry, J.

B157870 Chateau Monterey Homeowners Association (Not for Publication)  
v.  
CJL Construction, Inc., et al.

The judgment is reversed and the matter is remanded. Upon remand the trial court should enter summary adjudication on the cause of action for indemnity. Appellant shall recover costs on appeal.

Hastings, J.

We concur: Epstein, Acting P.J.  
Curry, J.

DIVISION FIVE

Court convened at 9:00 a.m.

Present: Grignon, Acting P.J., Mosk, J. and Zaida G. Heraldez, Deputy Clerk.

DIVISION FIVE (Continued)

Each of the following:

B165844 People v. Pablo Chavez

B166882 People v. Israel Pulido

Argument waived, cause submitted.

B165445     People  
                 v.  
                 Alan Shakhvaladyan

Merits:

Argued by A. William Bartz for appellant and by Russell A. Lehman, Deputy Attorney General for respondent. Cause submitted. The parties stipulate to allow Presiding Justice Paul Turner to participate in oral argument by listening to the oral argument tape.

B162107     Ik Nam You, et al.  
                 v.  
                 Chong Yol Kim, et al.

Merits:

Argued by John Randall Faith for appellants and by David S. Kim for respondents. Cause submitted. The parties stipulate to allow Presiding Justice Paul Turner to participate in oral argument by listening to the oral argument tape.

B163861     Lorraine V. Smith  
                 v.  
                 American Home Products Corp., et al.

Merits:

Argued by Burton Mark Senkfor for appellant and by Lisa M. Baird, David J. Sapienza, Michael F. Healy Joseph L. Greenslade for respondents. Cause submitted. The parties stipulate to allow Presiding Justice Paul Turner to participate in oral argument by listening to the oral argument tape.

February 4, 2004 (Continued)

DIVISION FIVE (Continued)

B163101     Shaina K.  
              v.  
              Does 1 to 100

Appearances:

Michael R. White for appellant and Richard N. Rust for respondents.

Matter is called and oral argument is ordered continued to March 2, 2004.

Court in recess.

Court reconvened at 11:38 a.m.

Present: Grignon, Acting P.J., Armstrong, J., Mosk, J. and Zaida G. Heraldez, Deputy Clerk.

Each of the following:

B169689 DCFS v. Manuel G.

B167398 People v. Charles Jones

B165186 People v. Daniel Saucedo

B166385 People v. Oswaldo Cuevas

Argument waived, cause submitted.

B165226     Alicia Zepeda  
              v.  
              Liboria Camacho

Merits:

Argued by Mark P. Castleman for appellant and no appearance for respondent. Submission deferred until February 17, 2004. Supplemental brief and additional record on appeal due February 17, 2004.

Court recessed.

Court reconvened at 1:00 p.m.

Present: Grignon, Acting P.J., Armstrong, J., Mosk, J. and Zaida G. Heraldez, Deputy Clerk.

DIVISION FIVE (Continued)

B164288 Skara v. Gentino

Argument waived, cause submitted.

B167759 Joon Young Oh, et al.  
v.  
Coldwell Banker Best Realty et al.

Merits:

Argued by Sandee L. Chadwick for appellants and by Gregory M. Guth for respondents. Cause submitted.

B166041 Mir Kazem Kashani, et al.  
v.  
Tsann Kuen China Enterprise Co. et al.

Merits:

Argued by Saied Kashani for appellant and by Jeffrey J. Parker for respondents. Cause submitted.

Court Adjourned.

DIVISION SIX

B156021 Starkey (Not for Publication)  
v.  
Covenant Care, Inc., et al.,  
Torok

The judgment is affirmed. Costs to Covenant and Torok.

Perren, J.

We concur: Gilbert, P.J.  
Coffee, J.

February 4, 2004 (Continued)

DIVISION SIX (Continued)

B166527      Cummings                      (Not for Publication)  
                 v.  
                 Cummings

The judgment (order) is affirmed. Costs are awarded to respondent.

Perren, J.

We concur:   Gilbert, P.J.  
                 Coffee, J.

DIVISION SEVEN

B162367      People                              (Not for Publication)  
                 v.  
                 Rivera

The judgment is affirmed.

Woods, J.

We concur:   Perluss, P.J.  
                 Johnson, J.

B167762      People                              (Not for Publication)  
                 v.  
                 Taito

The judgment is affirmed.

Johnson, J.

We concur:   Perluss, P.J.  
                 Woods, J.



February 4, 2004 (Continued)

## DIVISION SEVEN (Continued)

B165475      People                                  (Certified for Publication)  
v.  
Vanegas

The conviction for second degree murder is reversed. In all other respects the judgment is affirmed.

Johnson, J.

I concur: Zelon, J.  
I dissent: Perluss, P.J. (Opinion)

B164963 People (Not for Publication)  
v.  
Mena, et al.

The portion of the judgment as to Mena imposing a 20-year enhancement on count 6 pursuant to section 12022.53, subdivision (c), is modified to impose a six-year, eight-month enhancement. As so modified, the judgment is affirmed. The clerk of the superior court shall prepare a modified abstract of judgment and forward a copy to the Department of Corrections. The judgment as to Manzanarez is affirmed.

Perluss, P.J.

We concur:   Johnson, J.  
                          Zelon, J.

B166317 People (Not for Publication)  
v.  
Zamora

The judgment is affirmed.

Perluss, P.J.

We concur:   Johnson, J.  
                          Zelon, J.

February 4, 2004 (Continued)

## DIVISION SEVEN (Continued)

B162310 People (Not for Publication)  
v.  
Calderon

The judgment is affirmed.

Perluss, P.J.

We concur: Woods, J.  
Zelon, J.

B164320      Bram      (Not for Publication)  
v.  
DelMonico's Seafood Bay, Inc.

The judgment is affirmed. DelMonico's is to recover its costs on appeal.

Perluss, P.J.

We concur: Woods, J.  
Zelon, J.

B166411      Shires      (Not for Publication)  
v.  
Heritage Indemnity Co.

The judgment is affirmed. Respondent(s) to recover costs.

Perluss, P.J.

We concur:   Johnson, J.  
                      Woods, J.

## February 4, 2004 (Continued)

## DIVISION SEVEN (Continued)

[illegible]

The judgment is modified to reflect presentence conduct credit of 544 days, for a total of 1,632 days presentence credit. As modified, the judgment is affirmed.

Perluss, P.J.

We concur: Woods, J.  
Zelon, J.

B166960      People  
v.  
Truong

Filed order denying petition for rehearing.

B158894 Weinberg  
v.  
Safeco Ins. Co.

Filed order denying petition for rehearing.

## DIVISION EIGHT

B164361 Pasadena Live, LLC  
v.  
The City Of Pasadena

Filed order denying petition for rehearing.

February 4, 2004 (Continued)

DIVISION EIGHT (Continued)

B164377      Sivsa Entertainment, S.A.  
                 v.  
                 World International Network, et al.

The motion to dismiss is granted in part and denied in part. Appeal (notice of appeal filed January 13, 2003) is dismissed as moot only as to the appeal from the order denying WIN's motion to compel arbitration.